
SENATE BILL 5885

State of Washington

60th Legislature

2007 Regular Session

By Senators Jacobsen and Weinstein

Read first time 02/05/2007. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to protecting consumers by prohibiting interchange
2 fees from being charged on the state sales tax portion of a retail sale
3 transaction; amending RCW 63.14.010; and adding a new section to
4 chapter 82.08 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 63.14.010 and 2003 c 368 s 2 are each amended to read
7 as follows:

8 In this chapter, unless the context otherwise requires:

9 (1) "Goods" means all chattels personal when purchased primarily
10 for personal, family, or household use and not for commercial or
11 business use, but not including money or, except as provided in the
12 next sentence, things in action. The term includes but is not limited
13 to merchandise certificates or coupons, issued by a retail seller, to
14 be used in their face amount in lieu of cash in exchange for goods or
15 services sold by such a seller and goods which, at the time of sale or
16 subsequently, are to be so affixed to real property as to become a part
17 thereof, whether or not severable therefrom;

18 (2) "Lender credit card" means a card or device under a lender
19 credit card agreement pursuant to which the issuer gives to a

1 cardholder residing in this state the privilege of obtaining credit
2 from the issuer or other persons in purchasing or leasing property or
3 services, obtaining loans, or otherwise, and the issuer of which is
4 not: (a) Principally engaged in the business of selling goods; or (b)
5 a financial institution;

6 (3) "Lender credit card agreement" means an agreement entered into
7 or performed in this state prescribing the terms of retail installment
8 transactions pursuant to which the issuer may, with the buyer's
9 consent, purchase or acquire one or more retail sellers' indebtedness
10 of the buyer under a sales slip or memorandum evidencing the purchase,
11 lease, loan, or otherwise to be paid in accordance with the agreement.
12 The issuer of a lender credit card agreement shall not be principally
13 engaged in the business of selling goods or be a financial institution;

14 (4) "Financial institution" means any bank or trust company, mutual
15 savings bank, credit union, or savings and loan association organized
16 pursuant to the laws of any one of the United States of America or the
17 United States of America, or the laws of a foreign country if also
18 qualified to conduct business in any one of the United States of
19 America or pursuant to the laws of the United States of America;

20 (5) "Services" means work, labor, or services of any kind when
21 purchased primarily for personal, family, or household use and not for
22 commercial or business use whether or not furnished in connection with
23 the delivery, installation, servicing, repair, or improvement of goods
24 and includes repairs, alterations, or improvements upon or in
25 connection with real property, but does not include services for which
26 the price charged is required by law to be determined or approved by or
27 to be filed, subject to approval or disapproval, with the United States
28 or any state, or any department, division, agency, officer, or official
29 of either as in the case of transportation services;

30 (6) "Retail buyer" or "buyer" means a person who buys or agrees to
31 buy goods or obtain services or agrees to have services rendered or
32 furnished, from a retail seller;

33 (7) "Retail seller" or "seller" means a person engaged in the
34 business of selling goods or services to retail buyers;

35 (8) "Retail installment transaction" means any transaction in which
36 a retail buyer purchases goods or services from a retail seller
37 pursuant to a retail installment contract, a retail charge agreement,
38 or a lender credit card agreement, as defined in this section, which

1 provides for a service charge, as defined in this section, and under
2 which the buyer agrees to pay the unpaid principal balance in one or
3 more installments or which provides for no service charge and under
4 which the buyer agrees to pay the unpaid balance in more than four
5 installments;

6 (9) "Retail installment contract" or "contract" means a contract,
7 other than a retail charge agreement, a lender credit card agreement,
8 or an instrument reflecting a sale made pursuant thereto, entered into
9 or performed in this state for a retail installment transaction. The
10 term "retail installment contract" may include a chattel mortgage, a
11 conditional sale contract, and a contract in the form of a bailment or
12 a lease if the bailee or lessee contracts to pay as compensation for
13 their use a sum substantially equivalent to or in excess of the value
14 of the goods sold and if it is agreed that the bailee or lessee is
15 bound to become, or for no other or a merely nominal consideration, has
16 the option of becoming the owner of the goods upon full compliance with
17 the provisions of the bailment or lease. The term "retail installment
18 contract" does not include: (a) A "consumer lease," heretofore or
19 hereafter entered into, as defined in RCW 63.10.020; (b) a lease which
20 would constitute such "consumer lease" but for the fact that: (i) It
21 was entered into before April 29, 1983; (ii) the lessee was not a
22 natural person; (iii) the lease was not primarily for personal, family,
23 or household purposes; or (iv) the total contractual obligations
24 exceeded twenty-five thousand dollars; or (c) a lease-purchase
25 agreement under chapter 63.19 RCW;

26 (10) "Retail charge agreement," "revolving charge agreement," or
27 "charge agreement" means an agreement between a retail buyer and a
28 retail seller that is entered into or performed in this state and that
29 prescribes the terms of retail installment transactions with one or
30 more sellers which may be made thereunder from time to time and under
31 the terms of which a service charge, as defined in this section, is to
32 be computed in relation to the buyer's unpaid balance from time to
33 time;

34 (11) "Service charge" however denominated or expressed, means the
35 amount which is paid or payable for the privilege of purchasing goods
36 or services to be paid for by the buyer in installments over a period
37 of time. It does not include the amount, if any, charged for insurance
38 premiums, delinquency charges, attorneys' fees, court costs, any

1 vehicle dealer administrative fee under RCW 46.12.042, any vehicle
2 dealer documentary service fee under RCW 46.70.180(2), or official
3 fees;

4 (12) "Sale price" means the price for which the seller would have
5 sold or furnished to the buyer, and the buyer would have bought or
6 obtained from the seller, the goods or services which are the subject
7 matter of a retail installment transaction. The sale price may include
8 any taxes, registration and license fees, any vehicle dealer
9 administrative fee, any vehicle dealer documentary service fee, and
10 charges for transferring vehicle titles, delivery, installation,
11 servicing, repairs, alterations, or improvements;

12 (13) "Official fees" means the amount of the fees prescribed by law
13 and payable to the state, county, or other governmental agency for
14 filing, recording, or otherwise perfecting, and releasing or
15 satisfying, a retained title, lien, or other security interest created
16 by a retail installment transaction;

17 (14) "Time balance" means the principal balance plus the service
18 charge;

19 (15) "Principal balance" means the sale price of the goods or
20 services which are the subject matter of a retail installment contract
21 less the amount of the buyer's down payment in money or goods or both,
22 plus the amounts, if any, included therein, if a separate identified
23 charge is made therefor and stated in the contract, for insurance, any
24 vehicle dealer administrative fee, any vehicle dealer documentary
25 service fee, and official fees; and the amount actually paid or to be
26 paid by the retail seller pursuant to an agreement with the buyer to
27 discharge a security interest or lien on like-kind goods traded in or
28 lease interest in the circumstance of a lease for like goods being
29 terminated in conjunction with the sale pursuant to a retail
30 installment contract;

31 (16) "Person" means an individual, partnership, joint venture,
32 corporation, association, or any other group, however organized;

33 (17) "Rate" means the percentage which, when multiplied times the
34 outstanding balance for each month or other installment period, yields
35 the amount of the service charge for such month or period;

36 (18) "Interchange fee" means the fee a merchant's financial
37 institution pays to a cardholder's financial institution when a

1 cardholder uses a credit card or debit card as payment during a retail
2 transaction.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW
4 to read as follows:

5 Financial institutions may not charge interchange fees on the
6 portion of a retail transaction that is paid as state sales tax.

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